



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/153659

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 20, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 19, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly budgeted petitioner's FS effective December 1, 2013.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Pang Thao Xiong  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County and is a recipient of FS.
2. On November 5, 2013 petitioner had a renewal for FS. At that time the agency found she had earned income with two other employers than for which it previously had budgeted her income. The agency calculated petitioner's monthly income to be \$2305.90.

3. On November 11, 2013 the agency issued a notice of decision to petitioner stating that effective December 1, 2013 her FS would decrease due to an increase in income.

### **DISCUSSION**

In determining the amount of FS to be issued each month, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. § 273.9(b). From the gross household income, the following permissible deductions as discussed in the *FoodShare Handbook*, §4.6.1 are allowed: a standard deduction, an earned income deduction, a medical expenses deduction, a child support payment deduction, a dependent care expense deduction, and a shelter expense deduction. Some FS groups are not allowed a deduction for some expenses and some expenses are not always deducted in full. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>. The budgeting calculations here were performed prospectively to reflect what the petitioner is likely to receive, on average, each month. *FS Handbook*, §4.1.1.

When a person receives a weekly or biweekly payment, the agency must determine average monthly income by multiplying the weekly payment by 4.3, or the biweekly payment by 2.15. That multiplier accounts for the fact that, with exception of February, months have more than four weeks. While additional income is added in the months when only two, or four, paychecks are received, the process also stops the termination of benefits in months when an extra check is received. The county used the 2.15 multiplier in petitioner's case as she is paid biweekly. It seems that the multiplier was what had confused petitioner as to how the agency computed the income. The petitioner was unable to show how the county agency's calculations were incorrect and I can find no errors. See also FS budget at Exhibit 3.

Petitioner's questions and testimony at hearing were with respect to the fact that \$15 in FS is simply insufficient. The issue for me to decide however is whether the agency correctly determined her FS and ongoing based on the information that was given to the agency. Based on this, petitioner was eligible for \$15 in FS, which was what was issued by the agency. The monthly allotments are based on income and applied across the board. See *FS Handbook* §8.1.2. Based on the information before me, the agency appears to have ultimately calculated the benefits correctly. Her arguments about the sufficiency of that amount must be directed to the legislators who determine that amount.

I remind the petitioner that if her income decreases, or has other changes to her household, she must report and verify that to the agency so her FS can be redetermined. I add, assuming petitioner feels that this is not a fair determination, that I do not have equitable powers and cannot deviate from what law and policy dictate. See Oneida County v. Converse, 180 Wis.2d 120, 125, 508 N.W.2d 416 (1993).

### **CONCLUSIONS OF LAW**

The agency correctly budgeted petitioner's FS effective December 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new

evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

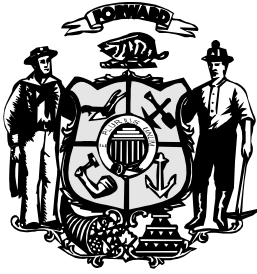
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 7th day of January, 2014

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 7, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability